IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.08.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.MANIKUMAR

H.C.P.No.568 of 2006

Ramamirtham .. Petitioner

-vs-

1.The State of Tamil Nadu,
rep. by its Secretary,
Prohibition and Excise Department,
St.George Fort,
Chennai 600 009.

2.The District Magistrate cum
District Collector,
Coimbatore District,
Coimbatore. .. Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus calling for the entire records relating to the impugned order of detention passed by the second respondent in Cr.M.P.No.25/G/2005/E4 dated 1.12.2005 and set aside the same and consequently direct the respondents to produce the detenu Raji @ Uralairaju @ Rajesh, S/o Ramamirtham, now confined at Central Prison, Coimbatore before this Court and set him at liberty forthwith.

For Petitioner : Mr.Om Sai Ram

For Respondents : Mr.M.Babu Muthu Meeran,
Addl. Public Prosecutor

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O R D E R

(Order of the Court was made by P.SATHASIVAM, J.)

The petitioner, who is the father of the detenu by name Raji @ Uralairaju @ Rajesh, who was detained as a "Goonda" as contemplated under the Tamil Nadu Prevention of Dangerous

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Activities of Boot-leggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14, 1982), by the impugned detention order dated 01.12.2005, challenges the same in this petition.

2. Heard the learned counsel appearing for the petitioner as well as the learned Additional Public Prosecutor.

3. This is a second petition filed by the father of the detenu. It is not in dispute that by order dated 20.03.2006, in H.C.P.No.1334 of 2005, after considering all the contentions raised by the learned counsel for the petitioner, this Court after satisfying itself, dismissed the said petition as devoid of any merit. The said petition was filed by a friend of the detenu and the present petition is filed by the father of the detenu.

4. The only one contention raised by the learned counsel for the petitioner is that there is a delay in passing the order of detention which vitiates the impugned order of detention. While elaborating the above contention, learned counsel for the petitioner submitted that the ground occurrence was alleged to have taken place on 01.10.2005 and the detenu was arrested on the same day i.e. 01.10.2005. According to him, investigation was completed on 03.10.2005 itself. However, the detention order was passed by the detaining authority only 01.12.2005. In the absence of proper explanation, the detention order is to be interfered by this Court.

5. We have heard the learned Additional Public Prosecutor on the above submission. Though the District Collector/District Magistrate - second respondent herein has filed a counter affidavit inspite of the fact that the ground relating to delay has been specifically taken in 4(b) of the grounds, there is no specific information in the counter affidavit explaining the reasons for not passing the detention order till 01.12.2005.

6. However, the learned Public Prosecutor by taking us through the details relating to four adverse cases, out of which the fourth adverse case relates to 302 I.PC. and the ground case dated 01.10.2005, as well as serious offences involved therein contended that the second respondent is fully justified in passing the detention order on 01.12.2005.

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7. Let us now consider whether sufficient materials are available for taking time till 01.12.2005.

8. The first adverse case relates to Otteri Police Station in Cr.No.328 of 2001 dated 01.10.2001. The offences involved are under Section 399, 402 and 395 r/w 397 IPC. It is seen that on 30.09.2001, at about 23.45 hours, the accused Raji @ Uralai Raju @

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Rajesh along with his associates came to Sakthi Mariyamman Petrol Bunk and robbed Rs.22,200/- in the bunk and absconded. Later, he was arrested and charge-sheeted. The case is pending trial.

9. The second adverse case relates to Chengalpattu Town Police Station in Cr.No.387 of 2001 dated 06.10.2001. The offences involved are under Section 395 r/w 397 IPC. The case relates to an occurrence that took place on 06.10.2001 night at 08.00 hours, where the accused Raji @ Uralai Raju @ Rajesh, along with his associates robbed Rs.69,500/- of Mahaveerchand Petrol bunk owner by attacking him with knife and absconded. Later, he was arrested and charge-sheeted. The case is pending trial.

10. The third adverse case relates to Chengalpattu Town Police Station in Cr.No.464 of 2001 and the date of occurrence is 07.12.2001. The offences relate to Section 394, 397 IPC. r/w 120B IPC. It shows that on 07.12.2001, at about 9.45 hours, the accused along with his associates waylaid the container lorry and attacked the lorry driver and the cleaner near Pachaiamman Koil between Trichy and G.S.T. Bye-pass road and absconded. Later, he was arrested and charge sheeted. The case is pending trial.

11. The fourth adverse case relates to Uthramelur Police Station in Cr.No.206 of 2005 and the date of occurrence is 22.03.2005, which shows that on 21.03.2005 evening at 06.30 hours, the accused, along with his associates, murdered one Jayabalan and absconded. Later, he was arrested and charge sheeted. The case is pending trial.

12. The ground case relates to occurrence that took place on 01.10.2005. It is brought to our notice that apart from the detenu, seven others were also involved and the said case relates to Mangalam Police Station Cr.No.414 of 2005. The offences are under Section 147, 148, 302 IPC and Sec.4, 5 and 6 of Explosives Substances Act 1908 and Sec.25(1), 27 of Arms Act.

13. As rightly pointed out, though the first three adverse cases relate to the year 2001, the fourth adverse case is of the year 2005 and in the ground case, according to the learned Additional Public Prosecutor, seven accused were involved and apart from the offences under the Indian Penal Code, the detenu and others also involved in Explosives Substances Act and Arms Act.

14. Taking note of the gravity of the offences under the Indian Penal Code and other special enactments and considering the fact that seven accused are involved in the ground case, though the second respondent has not furnished the required details in the form of counter affidavit, we are of the view that the detention order passed on 01.12.2005 cannot be interfered with on the ground

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of delay. There is no adequate material to hold that there was lapse on the part of the detaining authority in passing the detention order. Accordingly, we reject the said contention. As already observed, in view of the fact that the detenu and his associates were involved in Explosives Substances Act and Arms Act, normally it would take considerable time to get report from the concerned laboratory.

15. In such circumstances, we are satisfied that the detention order cannot be interfered with on the ground of delay. Except the above said contention, no other ground is urged, disputing the detention order.

16. In the light of what is stated above, we find no valid ground for interference. Consequently, the petition fails and the same is dismissed.

gms

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. THE SECRETARY
STATE OF TAMIL NADU,
PROHIBITION & EXCISE DEPARTMENT,
ST.GEORGE FORT, CHENNAI-9.

2. THE DISTRICT MAGISTRATE CUM
DISTRICT COLLECTOR,
COIMBATORE DIST.

3. THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

4. THE SUPERINTENDENT
CENTRAL PRISON
COIMBATORE.

5. THE JOINT SECRETARY TO GOVERNMENT
PUBLIC (LAW AND ORDER) DEPARTMENT,
FORT ST. GEORGE, CHENNAI-8.
BV (CO)

dv/2.9.06

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